

REMARKS/ARGUMENTS

Applicants are canceling claims 1-18 and 28-37 without prejudice or disclaimer. Applicants have further amended their remaining method and service claims to more particularly point out the claimed subject matter, and request the Examiner to reconsider this application in view of the amendments and the following remarks.

Claims 19-20 and 38

The Examiner has rejected claims 19 and 20 as anticipated by a "Yahoo Auctions" document dated 12/30/2002. However, the 12/19/02 "Autotrader" website document the Examiner cites to reject other claims demonstrates that present assignee Autotrader.com had possession of the subject matter recited in at least claims 19 and 20 before the 12/30/2002 date of the applied "Yahoo Auctions". See the following on page 2 of 3:

Get the Highest Bid

Our Auto Extension feature extends bidding for five extra minutes if a bid is placed within the last five minutes of a listing. This way, last-minute bidders don't short-circuit bidding on your listing.

In addition, applicant submits a Rule 131 Declaration that further demonstrates this 12/30/02 Yahoo Auctions document is not a reference. See page 19, paragraph beginning "Bids in the last five minutes...."

Claims 21-23

The Examiner has also rejected claims 21-23 as unpatentable under 35 USC 102(a) in view of the 12/19/02 Autotrader.com website page. However, this web page from assignee's own website and bears a date that is a mere twelve (12) days before applicant's 12/31/02 provisional patent application filing date. Because this page is from applicants' own website, it is evidence of prior invention by the named inventors -- not loss of novelty. See discussion above.

Claim 24

The examiner has also rejected claim 24 in view of Bogosian et al which includes the following description:

Amazon.com, Inc., the assignee of the present application, hosts two such forums: "Amazon.com Auctions," in which third party sellers auction off products to buyers, and "zShops," in which third party sellers advertise fixed-price products to buyers.

However, Bogosian does not appear to teach or suggest allowing sellers to flexibly change selected item listings between said classified advertising and said auction-style listing formats as recited in applicant's claim 24.

Claims 25-27

In Paragraph 7 of the Office Action, the Examiner presumably intended to reject claim 25 (not claim 28) as allegedly obvious over Taylor in view of Official Notice. Applicants have amended claim 25 to more particularly point out their claimed subject matter, and respectfully traverse the rejection. The Examiner cites paragraph [0046] of Taylor for its teaching of a bidder pre-approval process. However, claim 25 is actually about allowing sellers to sell items listing in auction style listings "out of channel" by suspending the auction and allowing the seller to issue an offer directly to a bidder who has submitted a bid. Taylor does not teach or suggest such a feature. The Examiner also cites "Buy It Now" of Yahoo or Ebay, but that functionality similarly does not teach or suggest allowing a seller to issue an offer to a bidder.

All outstanding issues have been addressed and this application is in condition for allowance. Should any minor issues remain outstanding, the Examiner should contact the undersigned at the telephone number listed below so they can be resolved expeditiously without need of a further written action.

The Commissioner is hereby authorized to charge any deficiency, or credit any overpayment, in the fee(s) filed, or asserted to be filed, or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Account No. 14-1140.

Respectfully submitted,

NIXON & VANDERHYE P.C.

By: /Robert W. Faris/
Robert W. Faris
Reg. No. 31,352

RWF:ejs
901 North Glebe Road, 11th Floor
Arlington, VA 22203-1808
Telephone: (703) 816-4000
Facsimile: (703) 816-4100